

U.S. Department of Labor

Wage and Hour Division
3161 W. White Oaks Dr., Ste. 203
Springfield, IL 62704
Telephone 217-793-7030



CERTIFIED MAIL RETURN RECEIPT REQUESTED: # 7014 1200 0001 0143 8570

April 25, 2016

Patrick Michael O'Neal, President
PAR Partnership, Inc.
d/b/a Outdoor Solutions
1400 Shawnee Court
Arnold, MO 63010

Subject: Administrator's Determination Pursuant to Section 214(c)(14) of the Immigration and Nationality Act (INA) and Applicable Regulations Pertaining to Violations Involving H-2B Nonimmigrant Workers

Reference #: 1700488

Dear Mr. O'Neal:

An investigation conducted by this office of PAR Partnership, Inc. d/b/a Outdoor Solutions (herein Outdoor Solutions) under the H-2B provisions of the INA¹, as amended, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(b) *et seq.*, 1184(c)(14), and 20 C.F.R. Part 655, subpart A (2008) and applicable procedural regulations in 29 C.F.R. Part 503 (2015), covering the period from February 2013 through June 2014 disclosed that Outdoor Solutions committed the following violations regarding the USCIS Form I-129, Petition for a Nonimmigrant Worker (I-129 Petition) and the Application for Temporary Employment Certification (9142 Application) (ETA Form 9142 with Appendix B) filed under the 2008 regulations: substantial failure to comply with the offered wage, terms and working conditions, outbound transportation, notification, accuracy of temporary need, and place of employment requirements. Any I-129 Petition or 9142 Application included in this investigation is listed.

The enclosed Summary of Violations and Remedies indicates the specific violations regarding the I-129 Petition and 9142 Application, which we discussed in our final conference with you, and the remedy imposed for each violation.

As a consequence of these H-2B violations, \$298,612.00 in unpaid wages is owed to 38 H-2B nonimmigrant workers. The same violations also resulted in the assessment of civil money penalties in the total amount of \$56,200.00. These amounts are explained in detail in the enclosed Summary of Violations and Remedies. Please note that where Outdoor Solutions violated both an I-129 requirement and the corresponding 9142 Application requirement, the associated back wages and civil money penalties are listed under each citation on the enclosed

¹ This determination letter addresses only H-2B violations.



Summary of Violations and Remedies. However, the back wages and civil money penalties for such violations will be collected under only one citation.

Outdoor Solutions is liable for any ongoing violations. Outdoor Solutions must pay these civil money penalties and the back wage amount no later than 30 calendar days after the date of this determination unless Outdoor Solutions requests an appeal as described below. The civil money penalties must be paid by submitting a certified check or money order payable to "Wage and Hour Division - Labor" to the Wage and Hour Division, U.S. Department of Labor, 230 S. Dearborn, Room 530, Chicago, IL 60604.

Outdoor Solutions must pay back wages in the amounts listed on the Summary of Unpaid Wages, Form WH-56, which has been previously provided to Outdoor Solutions. The back wage payments must follow procedures as outlined in the Back Wage Disbursement and Pay Evidence Instructions enclosed with this letter or previously provided. Outdoor Solutions is responsible for withholding the legally required deductions (e.g., Federal and State income tax and FICA) and paying these amounts and Outdoor Solutions' contributions to the appropriate entities. A certified check or money order in the net amount of back wages should be made payable to the names of the individuals owed back wages or "Wage and Hour Division - Labor" and must be submitted to the Wage and Hour Division, U.S. Department of Labor, 1222 Spruce St., RM 9.102B, St. Louis, MO 63103.

This debt is subject to the assessment of interest, administrative cost charges and penalties in accordance with the Debt Collection Improvement Act of 1996 and U.S. Department of Labor policies. Interest will be assessed at the Treasury Tax and Loan Account rate on any principal that becomes delinquent. The rate is currently 1%. Administrative cost charges will be assessed to help defray the Government's cost of collecting this debt. A penalty at the rate of 6% will be assessed on any portion of the debt remaining delinquent for more than 90 days. In order to avoid these charges Outdoor Solutions must forward payment of the back wages and civil money penalties, as described above, by the indicated due date. Please note that any pending bankruptcy action may affect the foregoing remedies. Where appropriate, the Department of Homeland Security and the Department of Labor's Office of Foreign Labor Certification (OFLC) will be notified about H-2B violations. Additionally, pursuant to 20 C.F.R. § 655.31(d)(4) (2008), if Outdoor Solutions fails to pay the back wages and civil money penalties by the indicated due date, the OFLC may not issue future labor certifications to the firm for a prescribed period of time.

Outdoor Solutions has the right to request a hearing on this determination. Such a request must be dated, be typewritten or legibly written, specify the issue(s) stated in this notice of determination on which a hearing is requested, state the specific reason(s) why the requestor believes this determination to be in error, be signed by the requestor or by an authorized representative, and include the address at which the requestor or the authorized representative desires to receive further communications relating to the hearing request.

The request must be made to and received by the Chief Administrative Law Judge (OALJ) at the following address no later than 30 calendar days after the date of this determination:

Chief Administrative Law Judge
U.S. Department of Labor
800 K Street NW, Room 400 North
Washington, DC 20001-8002

If Outdoor Solutions does not make a timely request for a hearing, this determination will become a final order of the Secretary of Labor and may no longer be appealed.

The procedure for filing a request for a hearing is provided in 29 C.F.R. § 503.43. Please note that 29 C.F.R. § 503.43(f) requires that a copy of any such request for a hearing must also be sent to me and to those parties listed below. Due to the delayed delivery of mail in certain areas, you may wish to transmit your request to the OALJ via facsimile at 202-693-7365 to ensure timely receipt.

The fact that the above sanctions/remedies are being imposed for the H-2B violations found at this time does not preclude the taking of other enforcement action as is deemed appropriate by the Department of Labor or the assessment of back wages or civil money penalties for additional violations of the H-2B provisions found at some future time.

A copy of 20 C.F.R. Part 655 subpart A (2008) can be found at the following web address: <http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=21887> and a copy of 29 C.F.R. Part 503 (2015) can be found at the following web address: <http://www.gpo.gov/fdsys/pkg/FR-2015-04-29/pdf/2015-09694.pdf>

Sincerely,


Jim Yochim
Assistant District Director

Enclosures: List of Applications and I-129 Petitions
Summary of Violations and Remedies
Back Wage Disbursement and Pay Evidence Instructions

cc: Chief Administrative Law Judge
U.S. Department of Labor
800 K Street NW Room 400 North
Washington, DC 20001-8002

Administrator
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue NW, Room S-3510
Washington, DC 20210
Associate Solicitor of Labor

Fair Labor Standards Division
U.S. Department of Labor
200 Constitution Avenue NW, Room N-2716
Washington, DC 20210

Associate Regional Solicitor
U.S. Department of Labor
Chicago Regional Office
Kansas City Branch
Two Pershing Square Building
2300 Main Street, Suite 1020
Kansas City MO 64108

Regional Administrator
Wage and Hour Division
U.S. Department of Labor
230 S. Dearborn Street, Room 530
Chicago, IL 60604

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Return Receipt Fee (Endorsement Required)	
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Sent To <u>Outdoor solutions</u>	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, August 2006 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <u>[Signature]</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>[Signature]</u> C. Date of Delivery <u>5/10/16</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> <p>MAY 19 2016</p>
<p>1. Article Addressed to:</p> <p><u>Patrick Michael O'Real</u> <u>Outdoor solutions Pres</u> <u>1400 Shawnee Ct.</u> <u>Arnold, MO 63010</u></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p><u>7014 1200 0001 0143 8570</u></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>